



The Salisbury Planning Board held its regular meeting Tuesday, April 27, 2010, in the City Council Chamber at Salisbury City Hall at 4 p.m. with the following being present and absent:

**PRESENT:** Karen Alexander, Richard Huffman, Benjamin Lynch, Carl Repsher, Bill Wagoner and Eldridge Williams

**ABSENT:** Robert Cockerl, Herman Felton, Jr., Tommy Hairston, Albert Stout, (two appointments pending City Council decision)

**STAFF:** Dan Mikkelson, Preston Mitchell, Diana Moghrabi, and David Phillips

This meeting was digitally recorded for *Access 16* television by Jason Parks.

Richard (Dick) Huffman called the meeting to order and offered a moment of silence. The Planning Board adopted the agenda as submitted. The minutes of the April 13, 2010 meeting were approved.

## **NEW BUSINESS**

### **A. District Map Amendment**

- Staff Presentation
- Courtesy Hearing
- Board Discussion
- Statement of Consistency
- Recommendation to City Council

Preston Mitchell made a staff presentation. Mr. Mitchell explained procedures for the benefit of the new members.

#### **CD-03-2010**

#### **The Villas at Hope Crest**

Wallace Properties I, LLC  
Douglas Development, LLC  
Unnumbered Lincolnton Road  
Tax Map & Parcel(s) 062-011  
Approximately 4.0 acres (1 parcel)

This property is located along the north side of Lincolnton Road west of Jake Alexander Boulevard and next door (west) to the Time Warner Cable facility. The petition proposes to change the existing RMX and GR-6 split-zoned base districts with a General Development–A Overlay (part of the old zoning code) by rezoning to only RMX with a Conditional District Overlay and allowing for the development of a 55-unit multi-family, age-restricted community.

The RMX district permits a maximum of 18 dwelling units per acre; this petition proposes a density of 14 dwelling units per acre. No use limitations are proposed for this Conditional District; therefore, all permitted and special uses listed for the RMX base district will be permitted by right unless restricted by City Council as part of the adoption of this ordinance.

Staff believes this is a good location for RMX. Policy N-19 of the *Vision 2020 Comprehensive Plan* states: Higher density housing projects, such as apartment complexes and condominium developments, should be located adjoining places of work, shopping and public transit. Access to such higher density housing shall not be through a lower density housing area. Higher density housing may often act as a transitional use between offices or shops and lower density housing. The *Consolidated Plan* finds there is a need for elderly housing in Salisbury.

The Conditional District petition and associated Master Plan were first reviewed by the city's Technical Review Committee (TRC) March 18, 2010. Staff and other reviewing agencies discussed the proposal with the petitioner's representative. Comments were generated and delivered to the petitioner for their consideration. All TRC comments were appropriately addressed. They meet all standards and request the parking exception (one row of parking in the front). The project proposes to locate parking in front of the building between the building and fronting street. A home located on the property will be removed.

Mr. Huffman opened a Courtesy Hearing; however no one from the public came forward to speak in favor or opposition.

**Tracy Dusenbury**, Development Coordinator, represented Douglas Development. She commented that city staff did a thorough job with their presentation. Douglas Development requests the parking exception for safety and security measures and plans recreational open space in the rear of the property—a green space with no impervious surfaces.

**David Reese** with Concord Engineering and Survey said they did look at parking in the rear, but that moved the common space to the right hand side and harder to access due to topography. Placement of the open space in the rear also offers more privacy. They raised the building a bit so it shows better to the road.

The Board reviewed drawings.

Bill Wagoner made a MOTION recommending City Council approval. "The Planning Board finds and determines that CD-03-2010 is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan and hereby recommends approval." Carl Repsher seconded the motion with all members voting AYE. (6-0)

**CD-03-2010** will go forward to the May 18 Council agenda with Planning Board's recommendation for approval.

**B. Special Use Permit**

- Swear in those persons presenting evidence
- Evidentiary hearing
- Findings of facts
- Recommendation to City Council

**SUP-02-2010**

**The Downtowner**

1024 Lincolnton Road

TM 013, Parcel 222

District: RMX

This is a request for a Special Use Permit to allow a catering/restaurant use. "The Downtowner" will be associated with the Harold B. Jarrett American Legion Post located at 1024 Lincolnton Road.

The Chair swore in individuals that would be presenting evidence. David Phillips made the staff presentation for the evidentiary hearing.

This will be an associated use; it was formally at the Elks Lodge on South Main Street. No changes will be made to the structure appearance. According to David Phillips, the American Legion Post does have a mixed-drink, private alcohol license. The restaurant would be required to have their own separate license, but do not intend to serve alcohol as part of the restaurant.

**John Cole** of 1024 Kenilworth Court, Concord explained his relocation from the Elks Lodge to the American Legion Post was due to the Elks Lodge wanting to use the space The Downtowner had previously occupied during the day. The Downtowner prepares food for the Rowan County "Meals on Wheels" program, as well as, the North Hills Christian School and Salisbury Academy lunch programs Monday through Friday. They hope to reopen to the public for lunch from 11-2 every day except Saturday. The electrical system is the only thing that will require some up fitting.

**Decision-Making Rules**

- The zoning ordinance (LDO) must spell out the standards for granting a Special Use Permit, and those decision-making standards cannot be developed on a case-by-case basis.
- The decision to grant or deny the SUP, or to impose conditions on the approval, must be based solely on the LDO standards.
- The standards must provide sufficient guidance for decision. The applicant, neighbors, and board(s) all need to know what the ordinance requires for approval.

### Production of Evidence

- The burden is on the applicant to present sufficient evidence to allow the board(s) to make findings that the required standards will be met.
- The burden is on an opponent to present sufficient evidence that a standard will not be met.
- If insufficient evidence is presented that the required standards will be met, then the SUP must be denied.
- If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued.
- If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied.
- If there is conflicting evidence, the board(s) decides what the facts are and decides accordingly.

### Standards for Decision

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

Karen Alexander made a MOTION, seconded by Benjamin Lynch that this standard is met. All members agreed. (6-0) They are basically using the building in the same manner. They meet parking standards. This applies to the next standard, too.

2. The proposed use, as submitted and approved, will be visually and functionally compatible to the surrounding area; and

Bill Wagoner made a MOTION, seconded by Carl Repsher that this standard is met. All members agreed. (6-0)

3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

Bill Wagoner made a MOTION, seconded by Karen Alexander that this standard is met. All members agreed. (6-0) There is ample parking on the same side of the street, and the values of the neighborhood are already established. The existing zoning allows this use.

4. No such use shall exceed 3,500 square feet in total size.

Bill Wagoner made a MOTION, seconded by Karen Alexander that this standard is met. All members agreed. (6-0) This is according to information provided by staff.

5. Staff added conditions that the F.O.G. program will be initiated or installed and the appropriate backflow prevention device is to be added to the domestic water service.

These items in #5 are part of the Salisbury/Rowan Utility requirements for restaurants/food service.

Carl Repsher made a MOTION, seconded by Karen Alexander that this standard is met. All members agreed. (6-0)

Karen Alexander then made a MOTION to recommend approval for **SUP-02-2010**. (6-0) This will proceed to City Council May 18.

## **OTHER BOARD BUSINESS**

Electronic agenda delivery is available at the following link.

<http://www.salisburync.gov/planningboard/pbfrontpage.html>

Two Planning Board appointments are yet to be made by City Council.

There being no further business to come before the Planning Board the meeting was adjourned at 5:00 p.m.

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Robert Cockerl, Chair

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Diana Moghrabi, Secretary